

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JUSTIN THOMAS KEHBORN, Petitioner, v. TOM ROY, COMMISSIONER OF CORRECTIONS, TIM LESLIE, DAKOTA COUNTY SHERIFF, Respondents.	Case No. 18-cv-72-JRT-KMM REPORT AND RECOMMENDATION
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Petitioner Justin Thomas Kehborn -- a state pretrial detainee -- filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. In an order dated February 21, 2018, this Court ordered Mr. Kehborn to file an affidavit by March 30, 2018 demonstrating when and how he had exhausted his claim to the Minnesota courts. *See* ECF No. 3 at 3. The Court specifically warned Mr. Kehborn that if he did not comply with the requirements of the order, he would be deemed to have abandoned the action and the Court would recommend that the case be dismissed without prejudice for failure to prosecute. ECF No. 3 at 3; *see also* Fed. R. Civ. P. 41(b).

The deadline has now passed, and Mr. Kehborn has not filed anything with the Court. In fact, Mr. Kehborn has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: April 17, 2018

s/ Katherine Menendez
Katherine Menendez
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the

objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).